

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA	)	CASE NO: 2:06-CR-129 (3)
	)	
Plaintiff	)	JUDGE MARBLEY
	)	
	)	
vs.	)	
	)	
LANCE K. POULSEN, et al.,	)	
	)	
Defendant.	)	

**AGREED ORDER RESOLVING  
DISPUTES BETWEEN THE UNITED STATES  
AND ELISE AYERS**

This matter came before the Court the on Plaintiffs motion for a writ of garnishment against Defendant filed on February 25, 2009 (Doc. 934) and on Defendant's motion to change venue and request for oral argument (Doc. 965), motion to quash writ of garnishment (Doc. 979) and motion for accounting and request for oral argument (Doc. 987).

**I      FACTS:**

The debt in this matter arises from a Judgment, entered on October 7, 2008, against Defendant, Donald H. Ayers ("Defendant"), in Criminal Action No. 2:06-CR-129, ordering special assessments in the amount of \$800.00 and restitution in the amount of \$2,384,147,105.09. (Doc. 826). On October 10, 2008, the Court entered an amended judgment, which states that, "Within 30 days he shall liquidate his Merrill Lynch money market account, individual retirement account, and all of his vehicles with the exception of one, to apply towards his outstanding restitution obligation." (Doc. 842).

On January 12, 2009, Plaintiff, having discovered that Defendant had not liquidated the aforementioned assets as ordered by the Court, filed a motion for release of funds held by Merrill Lynch, specifically accounts XXX-X0064, XXX-X0065, XXX-X0066', XXX-X0620, XXX-X7004, XXX-X7046 and XXX-X7055, in which Defendant had a substantial interest. (Doc. 916). On March 4, 2009, the Court issued an order to release said funds held by Merrill Lynch. (Doc. 962)

On February 25, 2009, Plaintiff filed a motion for a writ of garnishment against Defendant for an additional account held by Merrill Lynch, specifically account XXX-X0067 (Elise C. Ayers, Donald Ayers Dynasty Trust). (Doc. 934). On March 4, 2009, the Court issued a writ of garnishment (Doc. 960) and an order for writ of garnishment (Doc. 961) pertaining to said motion.

Since March 4, 2009, Mrs. Ayers has filed three subsequent motions regarding the aforementioned order to turn over funds and the writ of garnishment concerning the Merrill Lynch accounts; those motions being a motion to change venue and request for oral argument (Doc. 965), motion to quash writ of garnishment (Doc. 979) and motion for accounting and request for oral argument (Doc. 987).

## **II     RESOLUTION:**

In order to resolve these recent matters presented before the Court between Plaintiff and Mrs. Ayers, the parties agree to the following:

1.     The United States agrees to turn over to Mrs. Ayers fifteen thousand four hundred thirty-seven dollars and fifty cents (\$15,437.50), which represents fifty percent (50%) of the funds the United States obtained from the Merrill Lynch account XXX-X0064 through the Court's Order to Release Funds Held by Merrill Lynch (Doc 962).

Plaintiff later discovered that Defendant has no interest in account XXX-X0066.

2. The United States agrees to withdraw its motion for a writ of garnishment (Doc. 934) regarding the Donald Ayers Dynasty Trust account (acct no. XXX-X0067).

3. Mrs. Ayers agrees to withdraw her motion to change venue and request for oral argument (Doc. 965), motion to quash writ of garnishment (Doc. 979) and motion for accounting and request for oral argument (Doc. 987) and further agrees to make no further claims regarding any interest she may have had in the Merrill Lynch accounts specified in the Court's order to release funds held by Merrill Lynch (Doc. 962).

4. Mrs. Ayers agrees to relinquish her interest in both the real and personal property located at 8639 Gavinton Court, Dublin, Ohio (Parcel ID 60034308004000) to the United States.

5. The United States agrees to release the lien filed on November 3, 2008 in Lee County, Florida, Instr. no. 2008000288877, as it pertains to the property located at 15620 Kinross Circle, Fort Myers, FL within 10 days of the entry of this Agreed Order.

6. The United States agrees that the personal property located at 15620 Kinross Circle, Fort Myers, FL will not be subject to restitution or forfeiture in this matter.

7. The United States agrees that the property identified in paragraphs 2 ,5 and 6, or any proceeds from the sale of said property, will not be subject to restitution or forfeiture in this matter.

8. The parties represent that they have been given a reasonable period of time within which to consider this Agreed Order; that they have consulted with the attorney of their own choosing regarding the terms and conditions and had the opportunity to review them with their attorney; that they fully understand the terms and conditions of this Agreed Order; that the benefit provided to them constitutes good and valuable consideration; and, that they have

voluntarily executed this Agreed Order without any duress, undue influence or coercion of any sort.

9. This document is binding upon the parties and any of their heirs, executors, successors or assigns.

10. Each party will bear its own attorneys' fees and costs.

11. The foregoing constitutes the entire agreement of the parties and cannot be varied or amended except pursuant to a writing signed by all of the parties hereto or their successors or assigns.

12. This Agreed Order concerns only the property identified herein and is not applicable to any property, not specifically identified in this Agreed Order, that Ms. Ayers may have an interest in. It represents a full and final settlement of the contested property issues herein as identified in paragraphs 2, 5 and 6.

13. Nothing in this Agreed Order precludes the United States from pursuing any assets not specifically identified herein, including any assets transferred by or on behalf of Donald Ayers into any accounts owned or controlled by Elise Ayers or other unnamed persons prior or subsequent to the date of this Agreed Order. Similarly, nothing in the Agreed Order precludes Elise Ayers from challenging any restitution or forfeiture actions by the United States concerning any other assets, not specifically identified herein, where Elise Ayers may have an interest.

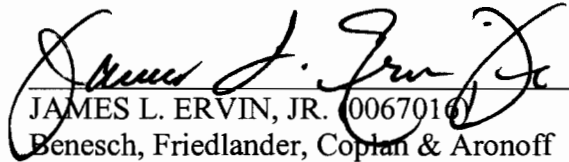
APPROVED AND AGREED TO:



GREGORY G. LOCKHART  
United States Attorney  
Southern District of Ohio  
DEBORAH F. SANDERS (0043575)  
Assistant United States Attorney  
303 Marconi Boulevard  
Suite 200  
Columbus, Ohio 43215  
(614) 469-5715  
Deborah.Sanders@usdoj.gov



ELISE C. AYERS  
Spouse of Defendant, DONALD AYERS



JAMES L. ERVIN, JR. (0067016)  
Benesch, Friedlander, Coplan & Aronoff  
LLP  
41 South High Street  
Suite 2600  
Columbus, Ohio 43215  
(614) 223-9300  
Jervin@bfca.com  
Counsel for Elise C. Ayers

OF COUNSEL:



ADAM P. SCHWARTZ  
Pro Hac Vice  
Florida Bar No. 083178  
RACHEL R. MAY  
Co-Counsel

Florida Bar No. 0010657  
CARLTON FIELDS, P.A.  
Post Office Box 3239  
Corporate Center 3 at International Plaza  
4221 West Boy Scout Boulevard  
Tampa, FL 33601-3239 (813) 223-7000  
aschwartz@carltonfields.com  
rmay@carltonfields.com

Co-Counsel for Elise C. Ayers

APPROVED AND SO ORDERED this 11<sup>th</sup> day of August, 2009.

  
UNITED STATES DISTRICT JUDGE MARBLEY